

REMARKS

This Amendment is being filed in response to the Office Action mailed from the U.S. Patent and Trademark Office on April 10, 2003, in which claims 1-4, 8, 11 and 12 were rejected and claims 13 and 15 were objected to. With this Amendment, claims 1 and 12 are amended. As such, Applicants respectfully request reconsideration and allowance of pending claims 1-4, 8, 11-13 and 15.

With this Amendment, two paragraphs of the specification have been amended to correct minor translation errors from the German PCT application PCT/DE99/02656. The amendments find support in the specification of German PCT application PCT/DE99/02656 and are merely minor translation errors. No new matter is added.

The Office Action rejected claims 1-4, 8, 11 and 12 under 35 U.S.C. 103(a) as being unpatentable over the Craciunescu et al. reference (presented by Applicants in Paper No. 15). The Office Action also rejected claim 12 under 35 U.S.C. 101 stating the disclosed invention is inoperative and therefore lacks utility. The Office Action also objected to claims 13 and 15 as depending on a rejected claim 12.

Applicants hereby gratefully acknowledge the telephone conference with Examiner Jerome D. Goldberg, on June 17, 2003, wherein Applicants' Attorney David J. Dykeman and Examiner Goldberg discussed the Office Action mailed on April 10, 2003 and the cited prior art. Examiner Goldberg and Attorney Dykeman agreed that an amendment to claim 12 to add "sensitive to the preparation of claim 1" would overcome the rejection of claim 12.

In the Office Action, claims 1-4, 8, 11 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Craciunescu et al. reference (presented by Applicants in Paper No. 15). The Office Action stated on pages 2-3:

The Craciunescu et al. reference (presented by Applicants in Paper No. 15) discloses applicants' compound therein L is ethyl xanthate in the formula (pt "(L)₂)⁰ (translation p. 3, lines 22, 23, 27 and 28) for treating "dual (anti-trypanosome and anti-tumor) "in vivo". . ." (see title page 1 of translation) at a range of 600,400,200 and 100 mg/kg (see page 9, last line). Accordingly, one skilled in this art would find ample motivation from the prior art supra to employ the claimed compound, bis (ethyl xanthate) platinum for treating cancer in the form of a pharmaceutical composition with a reasonable expectation that said

compound would be effective as a pharmaceutical for treating said cancer in the absence of a side-by-side comparison.

With this Amendment, claim 1 has been amended to overcome this rejection.

The Craciunescu et al. reference mentions platinum xanthogenate complexes within a large number of compounds. Of the large number of compounds listed in the Craciunescu et al. reference, some were examined for their properties in antitrypanosomal tests and for anti-tumour effect (e.g., Table I and Table II). Thus, the legends under Table I and Table II (in particular) provide important information. Under Table I, the legend states, "The complexes that do not appear in the Table have proved to be totally inactive for all lines of trypanosomal infections (at doses of 600, 400 and 200 mg/kg)." (Craciunescu et al. reference, p. 535). Under Table II, the legend states, "The complexes that do not appear in this Table have been inactive with all tumour types (total doses of 600, 400, 200 and 100 mg/kg)." (Craciunescu et al. reference, p. 537). Platinum xanthogenate complexes do NOT appear in any of the Tables, in particular not in Table II which gives data for the antitumoral effects of the tested compounds. Therefore, in view of the legends under the Tables and the data provided in these Tables, the teaching of the Craciunescu et al. reference is that, within the framework of the tests carried out, platinum xanthogenate complexes display no effect either as an antitrypanosomal drug or as antitumoral active ingredient. Within the Craciunescu et al. reference there is no teaching and no data whatsoever indicating that the "xanthogenates" exhibit any pharmaceutical activity. Therefore, the teaching of the Craciunescu et al. reference is such that one skilled in the art would be directed away from producing pharmaceutical preparations containing the compound of formula (I) as defined in claim 1 of the present application, and especially would be directed away from producing such pharmaceutical preparations in the expectation that such pharmaceutical preparations would be effective in treating cancerous diseases.

With this Amendment, claim 1 is amended to recite a pharmaceutical preparation comprising "a pharmaceutically effective amount of" at least one compound of general formula (I). The Craciunescu et al. reference states that complexes not listed in Table II were found to be inactive with all tumour types (i.e., tumour types tested). Therefore, since the only complexes listed in the Craciunescu et al. reference and potentially falling within the definition of formula (I) of the present patent application are not listed in Table II of the Craciunescu et al. reference, no compositions were produced in the Craciunescu et al. reference containing a complex according to formula (I) of the present patent application wherein such complex is

present in a **pharmaceutically effective amount**. That is, any compositions formed using a complex not listed in Table II of the Craciunescu et al. were inactive and therefore the complex was not present in a pharmaceutically effective amount. Thus, amended claim 1 is allowable over the Craciunescu et al. reference. As such, Applicants respectfully request reconsideration and allowance of pending claims 1-4, 8, 11-13 and 15.

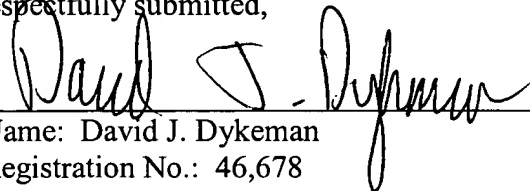
As agreed to by Examiner Goldberg and Attorney Dykeman during the June 17, 2003 telephone conference, claim 12 has been amended to recite a method of treating cancerous disease "sensitive to the preparation of claim 1" to overcome the rejection of claim 12. With this Amendment, claim 12 is amended. Thus, the rejection of claim 12 is overcome. As such, Applicants respectfully request reconsideration and allowance of claim 12 and claims 13 and 15 which depend from allowable claim 12.

With this Amendment, Applicants have made an earnest effort to respond to all issues raised in the Office Action of April 10, 2003, and to place all claims presented in condition for allowance. The amendments find support in the specification and no new matter is added. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Applicant submits that all claims are allowable as written and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation with Applicant's attorney would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney of record.

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Respectfully submitted,



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